United Nations CRC/C/OPSC/LVA/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Latvia under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

1. The Committee considered the initial report of Latvia (CRC/C/OPSC/LVA/1) at its 2062nd meeting (see CRC/C/SR.2062), held on 13 January 2016, and adopted the following concluding observations at its 2104th meeting (see CRC/C/SR.2104), held on 29 January 2016.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPSC/LVA/Q/1/Add.1). The Committee appreciates the constructive dialogue held with the high-level and multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined third to fifth periodic reports submitted by the State party under the Convention on the Rights of the Child (CRC/C/LVA/CO/3-5) and the concluding observations on its initial report submitted under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/LVA/CO/1), adopted on 29 January 2016.

II. General observations

Positive aspects

4. The Committee welcomes the ratification by the State party of the following:

(a) The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, in August 2014;

* Adopted by the Committee at its seventy-first session (11-29 January 2016).

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(b) The International Labour Organization Worst Forms of Child Labour Convention, 1999 (No. 182), in June 2006.

5. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including:

(a) The amendments made to the Criminal Law in order to introduce the provisions of Directive 2011/92/EU of the European Parliament and of the Council of the European Union on combating the sexual abuse and sexual exploitation of children and child pornography, in May 2014;

(b) The Cabinet Regulation No. 721 on procedures by which children cross the State border, in August 2010;

(c) The Cabinet Regulation No. 1613 on procedures for the provision of required assistance to a child who has suffered from illegal activities, in December 2009;

(d) The amendments to article 164, paragraph 3, of the Criminal Law, which introduce more severe sentences for inducing or compelling a minor to engage in prostitution, in May 2009;

(e) The Cabinet Regulation No. 407 on procedures by which children may be involved in activities (events) concerned with the demonstration of outer appearance, in May 2009;

(f) The enactment of the Law on Pornography Restrictions, in May 2007;

(g) The enactment of the Law on Residence of a Victim of Trafficking in Human Beings in the Republic of Latvia, in January 2007;

(h) The enactment of the Law on State Compensation to Victims, which covers, inter alia, offences against sexual inviolability of the person, in June 2006.

6. The Committee also welcomes the progress made in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:

(a) The 2014-2020 National Strategy for the prevention of trafficking in human beings;

(b) The 2014-2020 National Strategy for the development of education, which envisages the production of learning materials on topics such as addictions, prostitution, acknowledgement and prevention of risks of trafficking in human beings and sham marriages;

(c) The 2013-2019 National Strategy on children crime prevention and protection of children against criminal offences;

(d) The 2013 State Programme for improving the situation of the child and the family;

(e) The 2010-2013 Action Plan for the programme to protect children against criminal offences against morality and sexual inviolability;

(f) The 2009-2013 State Programme for the prevention of trafficking in human beings;

(g) The 2009-2011 and 2006-2008 Programme for the prevention of child crime and the protection of children from crime;

(h) The 2008-2011 Programme for reducing violence in the family;

(i) The creation in the Riga Region Criminal Police Department of a division to prevent and investigate criminal offences, including those carried out electronically, against morals and the sexual inviolability of children, in 2008.

III. Data

Data collection

7. The Committee notes the State party's efforts to collect and centralize data, including through the Ministry of the Interior Support Information System for Minors, the Criminal Procedure Information System and the Courts Information System. The Committee is, however, concerned at the absence of a comprehensive disaggregated data collection system covering all offences under the Optional Protocol.

8. **The Committee recommends that the State party develop and implement a comprehensive, coordinated and effective system of data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol, including child prostitution, child pornography and child sex tourism. Data should be disaggregated by, inter alia, sex, age, nationality and ethnic origin, region and socioeconomic status, with particular attention to children who are at risk of becoming victims of crimes under the Optional Protocol. Data should also be collected on the number of prosecutions and convictions, disaggregated by the nature of the offence.**

IV. General measures of implementation

Comprehensive policy and strategy

9. While welcoming the various thematic policies and strategies adopted by the State party, the Committee is concerned about the absence of a comprehensive policy and strategy on children that includes all the issues covered by the Optional Protocol.

10. **The Committee recommends that the State party develop a comprehensive policy on children that encompasses all areas covered by the Convention and the Optional Protocol. On the basis of the policy, it should develop a strategy containing the elements for the application of the policy and provide sufficient human, technical and financial resources for its implementation.**

Coordination and evaluation

11. The Committee notes that the Ministry of the Interior coordinates the implementation of the obligations under the Optional Protocol. It is, however, concerned that activities targeting child trafficking are prioritized over those targeting other prohibited practices defined in the Optional Protocol and at the lack of identifiable mechanisms for evaluating the impact of activities to implement the Optional Protocol.

12. **With reference to paragraphs 12 and 13 of its concluding observations under the Convention (CRC/C/LVA/CO/3-5), the Committee recommends that the State party ensure better coordination among the various agencies and committees working on developing and implementing child rights policies, including those under the Ministry of Welfare, the Ministry of Justice and the Ministry of Education and**

Science, and that it designate a unit capable of providing leadership and effective general oversight for the monitoring and evaluation of activities on child rights under the Convention and its Optional Protocols at cross-sectoral, national, regional and local levels.

Dissemination, awareness-raising and training

13. The Committee welcomes the efforts made by the State party to disseminate information and provide training on the provisions of the Optional Protocol, including to the police and judges, and to raise awareness through prevention programmes at schools. However, the Committee is concerned that there is no overall plan for awareness-raising among the general public, that the existing initiatives have largely concentrated on the prevention of trafficking and that the Optional Protocol has not been sufficiently promoted and disseminated, in particular among implementing agencies, the public at large and children.

14. **The Committee recommends that the State party:**

(a) **Further strengthen its efforts to systematically make the provisions of the Optional Protocol widely known to the public, in particular children, in a child-friendly manner, their families and communities;**

(b) **Develop, in close cooperation with relevant government agencies, civil society organizations, the media, the private sector, communities and children, awareness-raising programmes on all the issues covered by the Optional Protocol, as well as on protection measures against offences under the Optional Protocol, including in domestic laws;**

(c) **Ensure that its training activities are systematic and multidisciplinary and that they include all areas covered by the Optional Protocol and are provided to all professionals working with and for children, especially judges, prosecutors, social workers, law enforcement and immigration officials at all levels, throughout the territory of the State party;**

(d) **Conduct a regular assessment of its training activities to ensure that the knowledge and skills acquired are translated into practice in order to effectively identify victims and protect children from the offences covered under the Optional Protocol.**

Allocation of resources

15. The Committee is concerned that the State party has not provided adequate information on the budget specifically allocated for activities under the Optional Protocol, the lack of which presents an obstacle to assessing the implementation of the Optional Protocol.

16. **The Committee recommends that the State party ensure that sufficient and targeted resources are allocated for the effective implementation of the Optional Protocol in all the areas covered by it.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and 2)

Measures to prevent offences prohibited under the Optional Protocol

17. While noting the efforts made by the State party to prevent offences prohibited under the Optional Protocol, the Committee is concerned that measures are fragmented and do not cover all the offences under the Optional Protocol. In particular, the Committee is concerned that:

(a) The State party lacks programmes that specifically target children in vulnerable and marginalized situations;

(b) There are not sufficient mechanisms in place to identify and monitor children at risk of becoming victims to the offences under the Optional Protocol;

(c) There is insufficient information on the scale of sexual exploitation of children, in particular child prostitution and child pornography, in the State party, including on the Internet, but there are allegations that girls are involved in highway prostitution for long-distance drivers and that there have been cases of child prostitution in Riga, including in exchange for entertainment and gifts;

(d) There are allegations that police officers might be covering up for child prostitution offenders in return for remuneration;

(e) Measures to identify and address the root causes and incidence of offences under the Optional Protocol remain limited.

18. **The Committee recommends that the State party expand and strengthen its preventive measures to cover all areas of the Optional Protocol and, in particular:**

(a) **Establish special prevention programmes targeting all children, especially children in vulnerable and marginalized situations, such as girl victims of sexual and domestic violence, children living in institutions, children living in remote areas and children living in poverty, minority children, children of migrants and asylum seekers and children left behind by parents seeking work abroad;**

(b) **Establish mechanisms and procedures for identifying children at risk of becoming victims of the offences under the Optional Protocol, in particular children in vulnerable situations, and provide them with psychosocial support and awareness-raising programmes;**

(c) **Carry out studies with a view to assessing the scale of sexual exploitation of children, in particular the sale of children, child prostitution and child pornography, including on the Internet;**

(d) **Ensure that sanctions are imposed on law enforcement officials and police officers who display inaction and/or engage in corruption with regard to addressing the offences covered under the Optional Protocol;**

(e) **Give further attention to the implementation of social and economic development programmes and poverty-reduction strategies, including through the appropriate allocation of financial resources for the prevention of all forms of exploitation defined in the Optional Protocol.**

Child sex tourism

19. The Committee welcomes the fact that the State party's tourism policy is based on the World Tourism Organization Global Code of Ethics for Tourism. However, the Committee is concerned that no cases of sex tourism were detected during the reporting period, despite the fact that, in 2008, the Special Rapporteur on the sale of children, child prostitution and child pornography noted that sex tourism was on the rise in Latvia (see A/HRC/12/23/Add.1, para. 26). The Committee is also concerned at the lack of an effective regulatory framework and that no measures are taken to effectively prevent and combat child sex tourism abroad.

20. **The Committee recommends that the State party:**

(a) **Establish and implement an effective regulatory framework and take all legislative, administrative, social and other measures necessary to prevent and address all cases of child sex tourism;**

(b) **Strengthen its international cooperation through multilateral, regional and bilateral arrangements for the prevention and elimination of child sex tourism;**

(c) **Conduct advocacy with the tourism industry on the harmful effects of child sex tourism and disseminate the United Nations World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies;**

(d) **Encourage all stakeholders to become signatories to and comply with the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.**

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3), 5, 6 and 7)

Existing criminal or penal laws and regulations

21. While noting the relevant provisions of the Criminal Law and of the Protection of the Rights of the Child Law, including the amendment to article 3 of the latter on 26 November 2015, the Committee is concerned that the legislation does not adequately specify all offences under the Optional Protocol and does not equally protect all children under the age of 18 years. In particular, the Committee is concerned that:

(a) There is no explicit definition of "sale of children";

(b) Not all forms of the sale of children covered by articles 2 (a) and 3 (1) (a) (i) of the Optional Protocol are classified as offences distinct from human trafficking;

(c) Forced labour by children is not criminalized as a form of the sale of children;

(d) Children above the age of 16 years who have been sexually exploited might not be treated as victims, but as perpetrators given that, according to Cabinet Regulation No. 32 regarding restriction of prostitution, it is forbidden for a minor to be involved in prostitution, and that the age of sexual consent is 16 years;

(e) Some provisions of the Labour Law, in particular those regarding administrative liability for involving or utilizing a child in begging and of the Criminal Law that punish crimes under the Optional Protocol, in particular those encouraging or forcing

the participation of children in a pornographic performance or in the production of pornographic material, only protect children up to the age of 16.

22. **The Committee recommends that the State party continue to revise and bring its Criminal Law and other relevant legislation into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should:**

(a) **Define and criminalize "sale of children" in accordance with article 3 of the Optional Protocol, including explicitly criminalizing forced labour of children as a form of the sale of children — a concept that is similar, but not identical, to trafficking in persons;**

(b) **Ensure that child victims of the offences covered by the Optional Protocol are not, as such, penalized;**

(c) **Clearly stipulate that a child under 18 years of age, irrespective of the legal age of consent to sexual activity, is unable to consent to any form of sexual exploitation, including child pornography and child prostitution;**

(d) **Ensure that all children under the age of 18 years are fully protected by existing legislation.**

Impunity

23. The Committee notes that, each year, the prosecutor's office closes a number of cases concerning criminal offences against the chastity of children and sexual offences. It is concerned, however, about the lack of information regarding the number of cases that are duly investigated and the number of perpetrators who are prosecuted and sentenced.

24. **The Committee recommends that the State party take all measures necessary to ensure that all cases of sale of children, child prostitution and child pornography are investigated effectively and that perpetrators are prosecuted and punished with appropriate sanctions commensurate with the gravity of their crimes.**

Extraterritorial jurisdiction and extradition

25. The Committee is concerned that there are no legal provisions governing extraterritorial jurisdiction for offences under the Optional Protocol. It is also concerned that double criminality is a requirement for extradition.

26. **The Committee recommends that the State party take all the steps necessary to ensure that its domestic legislation explicitly enables it to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol. The Committee also urges the State party to remove the requirement of double criminality for extradition in respect of offences covered by the Optional Protocol and to use, where necessary, the Optional Protocol as a legal basis for extradition.**

VII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))

Measures to protect the rights and interests of child victims of offences under the Optional Protocol

27. The Committee is concerned that existing measures for protecting the rights and interests of child victims of offences under the Optional Protocol tend to be limited to trafficking, and are thus insufficient. The Committee is also concerned that those measures have not been adequately institutionalized.

28. **The Committee recommends that the State party strengthen the measures to protect the rights and interests of child victims of all offences under the Optional Protocol and, in particular:**

(a) **Establish mechanisms and procedures for the early identification of child victims, including unaccompanied children, of offences under the Optional Protocol and ensure that the personnel responsible for such identification, including immigration officials, judges, prosecutors, the police, social workers, medical staff and other professionals working with child victims, are trained in children's rights, child protection and child-friendly interviewing skills;**

(b) **Ensure that complaint mechanisms are easily accessible and available to children whose rights have been violated.**

Criminal justice system protection measures

29. The Committee notes that the State party has developed several measures to protect children during court hearings of cases relating to violation of the Optional Protocol, including through special procedures for testifying. The Committee is, however, concerned that:

(a) Until the age of 15 years, the rights of a victim belong to his or her legal representative, except for the rights of a child to provide a testimony and to express his or her view;

(b) Only children who have reached 15 years of age may exercise their rights together with their representative;

(c) Staff working with child victims are not sufficiently trained.

30. **The Committee recommends that the State party:**

(a) **Take all measures necessary, including legislative measures, to ensure the rights of the child to receive information, to be heard and to have his or her best interests taken as a primary consideration at all stages of the criminal justice process;**

(b) **Ensure that judges, prosecutors, the police, social workers, medical staff and other professionals working with child victims and child witnesses receive training on child-friendly interaction with them at all stages of the criminal and judicial processes;**

(c) **Take fully into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex).**

Recovery and reintegration of victims

31. The Committee notes that, since 2006, a separate social recovery service funded through the State party's budgetary resources has been providing assistance to victims of trafficking, including children. The Committee is, however, concerned about the absence of information on concrete programmes of assistance for the recovery and reintegration of child victims of other offences under the Optional Protocol.

32. **The Committee recommends that the State party take all measures necessary to ensure that child victims of offences covered by the Optional Protocol are not stigmatized and marginalized, that they are treated as victims and not criminalized as offenders and that they are provided with appropriate assistance, including for their physical and psychological recovery and full social reintegration.**

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

33. **In the light of article 10 of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences prohibited under the Optional Protocol.**

IX. Follow-up and dissemination

34. **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations by, inter alia, transmitting them to the relevant government ministries, Parliament and national and local authorities, for appropriate consideration and further action.**

35. **The Committee recommends that the report and the written replies submitted by the State party and the present concluding observations be made widely available, including, but not exclusively, through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol and its implementation and monitoring.**

X. Next report

36. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include additional information on the implementation of the Optional Protocol in its next periodic report to be submitted in accordance with article 44 of the Convention on the Rights of the Child.**